Discrimination Rules For Hiring Employees



Numerous federal, state and local laws prohibit discrimination in employment, and those laws apply to every phase of the employment relationship, including hiring.

You should keep these anti-discrimination laws in mind during every phase of the hiring process, from placing the help-wanted ad to asking questions during an interview to selecting your new employee. The federal laws, which apply to employers in all 50 states, generally prohibit discrimination on the basis of race, gender, pregnancy, national origin, religion, disability, genetic information, and age (if the person is older than 40). If you are an employer with at least 15 employees, you must follow these federal laws (although the prohibition against age discrimination only applies to employers with 20 or more employees).

For more information about these laws, see Federal Anti-Discrimination Laws.

Many state and local laws also prohibit discrimination. These laws often include smaller employers (more often those with five or more employees, but you should double-check to make sure), and they often prohibit additional types of discrimination, including discrimination on the basis of marriage, sexual orientation and weight. To learn about the anti-discrimination laws in your state, contact your state labor department or your state small business bureau.

In a very rare and narrow exception to the anti-discrimination laws, you can consider religion, gender and national origin when filling a position – but you can never consider race. The legal term for this exception is bona fide occupational qualification (BFOQ), and it applies when the characteristic is a necessary job requirement. For more about the BFOQ exception, see Exceptions to Employment Discrimination Laws.